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THE HON. JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON, SEATTLE

OMNI INNOVATIONS, LLC, a Washington Limited Liability company; JAMES S. GORDON, JR., a married individual,

Plaintiffs,

v.

INVIVA, INC., a Kentucky and Delaware corporation, d/b/a American Life Direct, and American Life Insurance Co. of New York; and JOHN DOES, I-X,

Defendants,

NO. CV-06-1537-JCC

PLAINTIFFS' MOTION TO LIFT STAY TO HEAR PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT PERMANENTLY ENJOINING DEFENDANTS FROM SENDING COMMERCIAL EMAIL TO PLAINTIFFS

[NOTE ON MOTION CALENDAR FOR JULY 6, 2007]

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Plaintiffs, by and through undersigned counsel, hereby move the Court for an order lifting the stay in this case, for the limited purpose of hearing Plaintiffs motion for partial summary judgment permanently enjoining Defendants from sending any further commercial email to Plaintiffs .

Lifting the Stay

As the Court is aware, the stay in this matter was entered based upon this Court's pending decisions on cross-motions for summary judgment in *Gordon v. Virtumundo, et al.* Since that time the Court has issued its decisions in *Virtumundo.* Plaintiffs now request the Court to lift the stay in order to hear Plaintiffs' Motion for Partial Summary Judgment for injunctive relief noted for July 6, 2007.

There is good cause to lift the stay to hear Plaintiffs' motion in order to effectuate the purpose of the CAN SPAM Act, and to enter an order that requires Defendants to stop sending spam to Plaintiffs. The Court's failure to do so will send the clear message to Plaintiffs, and others similarly situated, that they have no remedy whatsoever under the Federal Can-Spam statute. Such a result would undermine the clear intent of Congress in enacting that law.

RESPECTFULLY SUBMITTED this 15th day of June, 2007.

DOUGLAS E. MCKINLEY, JR
Attorney at Law

/S/ Douglas E. McKinley, Jr.
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/S/ Robert J. Siegel
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Certificate of Service

I, hereby, certify that on June 15, 2007, I filed the attached pleading with this Court via approved electronic filing, and served the following:

Attorneys for Defendants: Derek Newman, Roger Townsend, Newman & Newman.

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/s/ Robert J. Siegel

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